

# LETTER to a Friend concerning the BILL for Resuming the Forfeited Estates in Ireland.

SIR,

**T**HOUGH I was always of your Opinion, and thought our *Constitution* happily Temper'd, both to preserve it self, and promote the Happiness of the Community; yet, did I never look so nearly into the Advantages of the *Aristocratical* Part of our Politie, and the Power which the *Lords* have in the Legislature, as lately, since the Debates have happen'd about Resuming the King's Grants: To any considering Person it must seem a mighty Security to us, That a *Bill*, after it has had the Assent of the *Delegates* of the *People*, necessarily requires the Concurrence of the *Lords*, before it can have the Sanction of a *Law*. They have an Opportunity, upon a more mature Deliberation, of weighing the Arguments on both sides; of considering what *Affections* promoted it; and discovering whether it be Profitable and Just, and ought to pass into a *Law* or no. In such Deliberations their Lordships are always sway'd by Principles of Honour; and, not owing the Part they have in making Laws to Popular Elections, are not under the hard Necessity of Gratifying any greedy, or unreasonable Desires of any part of the *People*. To humour any Party, or Faction, they are not constrain'd to violate Publick Justice, to abandon the King's, or their own Right, and to break that Ballance which they have always kept in our State. Perhaps, when they seriously consider the Matter, they may find, that they have not often had more Reason for Exerting their Power, than in the *Bill* they are now possess'd of. Since you desire it, I will give you my Thoughts, what 'tis they justly may, what probably they will do; I must in short assure you, That when I consider, how tender they are of their Reputation, how glorious they reckon it, to act Consonantly to themselves, and to stick to the Principles of Justice and Honour which determin'd them before, my Opinion is, they cannot get over the Difficulties of this *Bill*. The Reasons you shall be Judge of.

You may remember, that on the last day of *December*, 1690, an Engross'd *Bill*, For Confiscating the Lands of the Rebels in Ireland, and applying them to the use of the War, was sent from the *Commons* to the *Lords* House. *January* the 5th. His Majesty, at the Adjournment of the Parliament, told both Houses, That he would not make any Grant of the Forfeited Lands, till there was another Opportunity of settling that Matter in Parliament. After the Adjournment the *Lords* met again on the 31st. day of *March*, at which time the Engross'd *Bill* lay before them. They had then an Opportunity (if I understand what that word signifies) of passing the *Bill*, and settling that Matter. Had they done it, and His Majesty had refus'd his Royal Assent, there had been some shew of Reason for Peoples making a Noise about his Promise; as things stand now there's none. Their Lordships let that *Bill* fall, as they did another the year following, and the *Commons* did several others. Their Reasons are Manifest: They would not dispose of those Forfeitures, because 'twas His sole and undoubted Right by his Prerogative, (which is the Common Law of the Land) to grant them away as he pleas'd. Besides the Matter of Justice, they were of Opinion, That it would be more our Interest, to let the World see that we Honour'd the King, and would give him his Due, than to employ those Lands to the use of the War. I dare not in this Matter Arraign their Judgment, or say 'twas contrary to Justice, or the Publick Good. I know Money is very valuable, especially when we want it, as we did at that time: But perhaps (as their Lordships thought) we purchase it too dear, when to obtain it, we break through the settled and ancient Rules of our Constitution; Invade the King's Right; and place a particular Mark of Unkindness on Him. 'Tis plain to any thinking Person, without making any Enquiries, that they let that *Bill* fall, because they thought it Unjust: Otherwise it can't well be deny'd that they were unkind to their poor Country, engag'd at that time in a long and expensive War,



in depriving it of the great Summ that was propos'd to be rais'd out of those Forfeitures. If to stave off this Imputation any one will say, that for the good of their Country they let them lye, till they shou'd be granted away, Improv'd, and made much more Valuable. This would be the highest Affront, for 'tis what never could enter into the Thoughts of Men of their Lordships nice Honour. If then they let that *Bill* fall, because they thought it Unjust, they can't well pass this which has infinitely greater Hardships in it. What then would be straining at a Gnat (if the *Bills* be compar'd in all their Circumstances) will be swallowing a Camel now. They gave up a *Bill* which left a third Part to the Disposal of the King, because they thought the whole was his Due; this deprives Him of the whole. We had then a War with a great and powerful Enemy, which we had reason to fear, would be long and Chargeable, now by His Majesty's Conduct we enjoy Plenty and Peace. Then the Matter had been Amicably Accommodated between the King and his Parliament, without any Symptoms of Affront and Unkindness to His Majesty; now the Rancor of His worst Enemies at Home, and the Desires of their Friends Abroad are gratified. Then [the Injury which they boggl'd at, reach'd only to the King; the present *Bill* does not only Affect Him much more Sensibly, but it Wounds our Constitution, and hurts Men of all Orders and Degrees.

His Majesty's part in it is very extraordinary: He sees (notwithstanding what a late Author has insinuated to the contrary) what no English Monarch ever did, all His Grants resum'd, without any Saving for His *Prerogative*. If the Lords will not interpose, but He be forc'd to pass the *Bill*, (for considering Circumstances, so I must express it) He must give His Assent to a *Bill*, which destroys the Articles of *Waterford*, Sign'd with His own Hand: He must give up His *Prerogative*, which at His Coronation He Swore to Maintain: He must Proclaim to His Subjects, That 'twill be madness in them, whenever Troubles or Rebellions happen, to regard their Countrey, or take up Arms for Him who has it not in His Power to Reward; a thing of dangerous and ill Consequence to Him and His Kingdoms: He must take away the Rewards of Loyalty and good Services He has given; and consent to the Ruin of Multitudes, for whose Preservation He has hazarded His Blood.

If a *Bill* which bears thus hard upon His Majesty, can be said to be truly Calculated for the common Good, yet we can't avoid entertaining another Opinion of it, if it seem to affect our Polity. We generally glory in our Constitution, and think that we have all the Advantages of Democracy, Aristocracy, and Monarchical Government, without the Defects or Exorbitancies of either, because nothing can pass into a Law, till it has been duly examin'd by the King, Lords, and Representatives of the People. This is generally reckon'd the happy Temperament of our *Constitution*: But what becomes of it, if the Delegates of the Commons, to a *Bill*, which can only have its Rise in their House, can tack Foreign Clauses which it shall not be in the Power of the *Lords* to Examine? If this be the Right and Privilege of the *Commons*, they may with that consolidate all other *Bills*, and so take the whole Legislature into their own Hands.

Besides these great Inconveniencies, the Lords will find that great Multitudes are griev'd in this *Bill*, who could not be touch'd in that which they formerly let fall. They, who by the King's Grace and Favour, enjoy those Forfeited Estates, are Legally seiz'd of them: For it must be own'd that a Grant made by His Majesty, whether of Crown Lands, or Forfeitures, makes a good and legal Title. This is the Title by which many of the Lords hold their Estates; 'tis what admits of no Controversie in our Laws; 'tis what the Lords allow'd when they let the *Bills* dye in their House, and gave up the Forfeitures to His Majesty. 'Tis likewise to be consider'd, That as His Majesty, by Fighting our Battles, and hazarding His Life, acquir'd a better Title to give, than generally our Kings have done, so the generality of the Grantees made their Titles stronger in Equity, by their great Services. To resume therefore from them, will be more than barely taking away what Men are legally possess'd of. This *Bill* does not save any one great Man; (I mean, of the Protestant Communion;) None of His Majesty's nearest Friends who ought to be consider'd, if not for their own Merit, yet for His Sake: Not that Noble Fo-

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reigner who Commanded our Army, and put an end to the War in *Ireland*; tho' the *Commons* caressed Him for His Services: Nor another who had a good part in that Successful Expedition, though his Grant is Charitably employ'd in Supporting his poor Persecuted Countrymen: Nor another Noble Person of our own Country, who ventur'd hard, and Travel'd far to procure the Happiness we enjoy; though his good Services were consider'd in two former Bills, yet is he not regard- ed in this. The Lords, who derive their Honour from our Kings, and many of their Estates from their Grants, are the most competent Judges of these Hardships; and can very well see of what ill Consequence 'twill be to their own Order, to pass this Bill, and destroy that Perogative of the Crown, which is the Source and Fountain of their Grandeur.

Another great Hardship of the Bill is, That it destroys that Right which Purchasers have in those Lands, and deprives them of the Money they laid out. If they purchas'd under a Title that is good in our Law, they are legally Seiz'd; if so, the Lords will Judge whether it be a Hardship or no, to turn Men out of their Freeholds. They who are for the Bill, say, they purchas'd a bad Title. The Title had been good enough, if it had been left to stand upon its own Bottom: If it be invalidated afterwards by an Act of Parliament, that is not the Fault of the Title, nor of those who purchas'd it. In prejudice of the Title, they say, the House of *Commons* Address'd the King, and pray'd he would not dispose of the Forfeitures. If the King had a Right to them by Law, that Address (if there had been such an Address, as there never was) could make no Alteration in the Title, for an Address of the House of *Commons* cannot alter the Law of *England*. To strengthen their Argument, they urge the King's Promise. What did he Promise? That he would never dispose of the Forfeitures? If Men are inclin'd to overlook that Respect which is due to Majesty, and tax the King with breach of Promise, yet they ought to consider what a Reproach 'tis to themselves to mistake the Sense of very plain English. They who consider His Majesty's Words, will see that the Lords (to say nothing of what the Commons did themselves) Cancell'd all the Obligations of his Promise: And the Purchasers, who took all their Encouragement from the Lords, thought what their Lordships did, was of as great Force to Strengthen, as the *Commons* Address was to make void a settled and undoubted Right.

Besides these Purchasers, there are others whose Cases, I'm told, are very deplorable. They who knew the State of *Ireland* at that time, say, That in the late Troubles the Protestants every where in the Country were Plunder'd by the Irish, and driven out of their Habitations. After the Reduction of that Kingdom, the English, whose Cattle and Goods had been generally taken away, and in many places, their Houses burnt, not being able to hold their former Leases, were, very generally speaking, destitute of Settlement, and Habitation. To many of them Leases were made by the King, whilst the Lands were in his Hands. Afterwards His Majesty's Grantees made it a Rule to encourage them. This was occasion'd by an unlucky, and (as it appears) wrong Notion conceiv'd by them, that it would promote the English and Protestant Interest in that Kingdom, to encourage Protestant Tenants. This Bill deprives all these of the Fruits of their Labour for many Years: It makes void their Leases without any Consideration for their Improvements, which have rais'd the Value of the Lands; it turns them out of their Habitations, and (as I am inform'd by those who understand the Genius of the Country) in effect puts them into the Hands of the Irish, who will certainly bid most for them. Were the Bill free from the heavy Clogs 'tis loaded with, could no other Objection be made against it, than this one great and general Calamity that it brings (as I'm very well inform'd) on many thousand Protestant Families, this alone were enough to terrifie the Lords from passing it. They who would not seize the Forfeitures, when the King only had a Property in them, because they would not invade his Right, will hardly think it reasonable, after Nine Years time, when People are settled in their Habitations, to turn them out, and resume their Improvements, and the Sweat of their Brows, to defray the Charge of the War.

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These Hardships are generally allow'd, but 'tis said, that they now are only to be Bewail'd, not Remedy'd. The Lords, they say, Must make no Alterations, because 'tis a Money Bill: 'Tis pity it should be so. I always thought a Money Bill, which was priviledg'd from the Inspection of the Lords, was that in which the *Commons* rais'd Money by a fair and equal Tax on the People, whose Representatives they are. If Men's Estates were seiz'd in gross, I imagin'd that ought to be reckon'd a Penalty or Mulct rather than a Tax laid on them by their Representatives; Besides, I don't remember that any Money has ever been paid upon such a *Bill* in *Ireland*. To Consolidate Clauses, how Heterogeneous soever, with a Money-Bill, and call them part of it, is a very ready way to lodge the whole Legislature in the Commons; but 'tis a great Solecism in Speech, and a Contradiction in our Constitution. What will not pass currently hereafter in a Money-Bill, if the Clause which strikes at several Men of Knowledge and Integrity, and renders Members of Parliament incapable of being Commissioners of the Excise, be now Adopted into that Family? This is not only foreign to the Bill, but of most dangerous consequence to the Commonwealth. That, we know, which secures the Peace and Happiness of our Community, is, the mutual Confidence which the King and his People have in each other. To Enact therefore a publick Distrust, to tell the People so Solemnly, that worthy Men, whom they have Chosen for their Representatives, are not to be Trusted in the King's Service, is, to create in People Jealousies and Suspensions of the King, and to hazard the Safety of the publick.

I have, Sir, tir'd you with a longer Letter than I design'd, I now shall only desire you to Reflect upon what the Lords did formerly, and then consider, whether 'tis possible they should pass this Bill; A Bill which bears so hard upon the King; Which cramps the Power of the Lords, and consequently affects the *Constitution* of *England*; Which Deprives Grantees and Purchasers of the Freeholds they are legally possessed of; and Turns others out of their Habitations and Improvements; Which Destroys many other Legal Titles; Which sets up a severe *Inquisition* in *Ireland*; and Vests a Power in the *Inquisitors* too great to be given to any of the *Sons of Men*.

Notwithstanding these Severities, 'tis said, That the Lords must pass the Bill, because the Necessity of our Affairs requires it. I can't see what pressing Necessity there is for us to do what we think Hard, and seem to Condemn. The English Land-Tax Bill may soon be recover'd: The Purchase Money of the Irish Forfeitures requires a considerable time to have it brought into the *Exchequer*. If Money must be rais'd on those Lands, it may be done without Resuming His Majesty's Grants, without Seizing the Freeholds of Grantees and Purchasers, or the Labours of others; and that with greater Expedition, and infinitely more to the Satisfaction of the People of *England*, than 'twill be now: For if this Bill pass you will see such Calamities follow it, as will Grieve all the merciful and tender-hearted People of *England*; but the Advantages which you expect by it you will never see.

I forgot to tell you that His Majesty, after the Lords let the first *Bill* fall, and Absolv'd Him from His Promise, staid almost Three Years before He made any one Grant.

I ask your Pardon for the trouble of so long a Letter.

am,

Your very humble Servant,

R. E.

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